

## PROPOSED RULES

4. In § 95.471, paragraphs (a), (b) and (c) are amended to read as follows:

§ 95.471 Station identification.

(a) All communications must be identified by the station call sign during each series of transmissions, but at least at intervals not to exceed 10 minutes.

(b) Except as provided in paragraph (c) of this section, the CB station call sign must be clearly given in the English language. A phonetic alphabet may be used as an aid for identification. A "Handle," unit designator, or special identifier may be used in addition to, but not instead of, the station call sign.

(c) In lieu of the station identification required by paragraph (b) of this section, automatically activated equipment may be used to transmit station identification in international Morse code, if:

(1) The modulating tone is 750 Hz±10 Hz and the level of modulation of the identification signal is maintained at 40 percent±10 percent; and

(2) The code speed is maintained at 25 words per minute.

5. In § 95.513, a new paragraph (c) is added, as follows:

§ 95.513 Modification of transmitters.

(c) Notwithstanding paragraphs (a) and (b) of this section, automatically activated equipment used only to transmit station identification in international Morse code may be connected or attached to a transmitter if:

(1) All attachments or connections are made by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio telephony or telegraphy license; and

(2) The automatically activated equipment does not affect the proper operation of the transmitter to which it is attached or connected; and

(3) The code speed of the automatic equipment is maintained at 25 words per minute; and

(4) The modulating tone is 750 Hz±10 Hz and the level of modulation of the identification signal is maintained at 40 percent±10 percent.

6. In § 95.611, paragraph (d) (2) (i) is amended to read, as follows:

§ 95.611 Availability of frequencies.

(d) \* \* \*

(2) \* \* \*

(i) The frequencies listed above are available for use with radiotelephony (voice) transmissions only. Radiotelephony include the use of A2 or F2 emissions for the purpose of transmitting station identification in international Morse code.

7. In § 95.645, a new paragraph (d) (12) is added, as follows:

§ 95.645 Additional requirements for type acceptance.

(d) \* \* \*

(12) Automatically activated equipment used only to transmit station identification in international Morse code if:

(i) The modulating tone is 750 Hz±10 Hz and the level of modulation of the identification signal is maintained at 40 percent±10 percent; and

(ii) The code speed is maintained at 25 words per minute.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### [ 9 CFR Parts 1 and 2 ]

#### ANIMAL WELFARE

#### Notice of Proposed Rulemaking

• *Purpose:* The purpose of this document is to propose new and revised regulations under the Animal Welfare Act with respect to health certification, C.O.D. transactions, minimum age, recordkeeping, annual reports required of research facilities and certain other governmental instrumentalities and other requirements for certain animals, to conform to the Animal Welfare Act Amendments of 1976 (Pub. L. 94-279) enacted on April 22, 1976. •

Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), as amended by the Animal Welfare Act Amendments of 1976 (Public Law 94-279), the Animal and Plant Health Inspection Service is proposing to amend Parts 1 and 2 of Subchapter A, Chapter 1, Title 9, Code of Federal Regulations, to (1) require persons required to be licensed or registered under the Act and Federal, State and local governmental agencies or instrumentalities to provide a health certificate by a licensed veterinarian for live dogs, cats, or nonhuman primates presented to any carrier or intermediate handler for transportation in commerce, (2) require a minimum age of eight (8) weeks be established for dogs and cats presented by any person to any carrier or intermediate handler for transportation, in commerce, except to registered research facilities, (3) require all C.O.D. type arrangements for shipping animals in commerce by any intermediate handler or carrier to be prohibited unless, the consignor guarantees in writing, payment of all transportation costs, including any return transportation and any other incidental or out-of-pocket expense for any animal shipped in commerce by any intermediate handler or carrier, (4) change recordkeeping requirements for dealers, exhibitors, research facilities, and operators of auction sales to allow the flexibility of using their systems of recordkeeping, (5) to change

and clarify the annual reporting requirements for research facilities and certain governmental instrumentalities and the responsibilities of the institutional committee and attending veterinarian, (6) amend definitions in the regulations to conform with the Animal Welfare Act Amendments of 1976, (7) add certain new definitions, and (8) rearrange the definitions in an appropriate order of associated subjects.

*Statement of considerations.* The Animal Welfare Act Amendments of 1976, enacted on April 22, 1976, extensively amended the Act of August 24, 1966 (Pub. L. 89-544), as amended by the Animal Welfare Act of 1970 (Pub. L. 91-579) (7 U.S.C. 2131 et seq.). Provisions of the recent legislation require that certain regulations promulgated under the previous Acts be amended and new regulations adopted, concerning, among other things, health certification, minimum age requirements, and C.O.D. requirements.

On May 14, 1976, the Department published in the FEDERAL REGISTER (41 FR 19994) a notice of public meetings to be held to obtain views, comments, arguments, and other input from the public in order to propose reasonable and effective regulations relating to health certification, minimum age requirements, and C.O.D. provisions. These meetings were held in College Park, Maryland, on May 25, 26, 27, 1976, and were attended by representatives of animal welfare organization, gamecock breeder organizations, the pet industry, the transportation industry, other Federal departments and agencies, and by interested members of the general public.

Comments voiced at the public meetings indicated that for the present time health certification requirements should be made applicable to dogs, cats, and nonhuman primates delivered by any dealer, research facility, exhibitor, or operator of an auction sale, or Federal or State governmental agency or instrumentality, to any intermediate handler or carrier for shipment in commerce, and that USDA should provide a form for such certification by a licensed veterinarian. The participants indicated that a minimum requirement of eight weeks of age for dogs and cats should be established provided such animals have been weaned for a sufficient period of time to take solid food and water on their own. Discussions involving C.O.D. requirements indicated a need by the parties attending the meetings for a better understanding of the law rather than providing input into the proposed rulemaking.

The proposal would provide for a health certification, as required by the Act, as amended, for certain live dogs, cats, and nonhuman primates which are delivered to an intermediate handler or carrier for transportation in commerce, by any dealer, research facility, exhibitor, operator of an auction sale, or any department, agency, or instrumentality

of the United States or of any State or local government. A form is proposed which may be used for such health certification, as well as for identification of animals and recordkeeping by persons subject to the Act. Such certification would be made by a doctor of veterinary medicine licensed to practice veterinary medicine in any State of the United States or the Commonwealth of Puerto Rico, within 10 days prior to delivery of such live dog, cat, or nonhuman primate to the intermediate handler or carrier.

The Department proposes that any live dog or cat delivered by any person (including private owners) to any carrier or intermediate handler for transportation in commerce shall be at least eight weeks of age and have been weaned for a period of at least five days. Certain exceptions are proposed for specified animals which are shipped to research facilities for both the health certification and minimum age requirements. The authority for these exceptions are provided by the Act, as amended.

As required by the Act, as amended, the Department proposes that no C.O.D. type arrangement will be used in the transportation of animals by intermediate handlers or carriers in commerce unless the consignor guarantees in writing the payment of all transportation costs, including any return transportation, and any other incidental or out-of-pocket expenses involved for the care, feeding and storage or housing of the animal if the consignee fails to accept delivery of the shipment within 48 hours of notification.

Under the proposed regulations, the intermediate handler or carrier must return to the consignor, or to his designee, any C.O.D. animal shipment not claimed within 48 hours after notice to the consignee of the animal's arrival at destination. In order to eliminate possible lengthy storage of such animals upon arrival at destination, it is believed necessary that definite periods of time for notification of consignees by carriers and intermediate handlers should be established. A maximum period of 24 hours is proposed for consignee notification. This would make a maximum period of 72 hours an animal would have to wait for pickup by the consignee or be returned to the consignor. It is also proposed that the intermediate handler or carrier at destination be required to attempt to notify the consignee of C.O.D. shipments at least every 6 hours after their arrival at destination for a maximum period of 24 hours. Thereafter, if the consignee cannot be located, the animal or animals involved would be required to be returned to the consignor or such other person designated by the consignor. These proposed regulations would not prohibit any carrier or intermediate handler from requiring any additional guarantee for the payment of the cost of transportation, incidental or out-of-pocket expenses connected with such shipments.

Pursuant to the Act, as amended, the Department proposed recordkeeping requirements for carriers and intermediate

handlers relating to health certifications and C.O.D. shipments in which they are involved. Present regulations require a two year recordkeeping period for dealers, exhibitors, operators of auction sales and research facilities. Documentation of alleged violation cases involving persons subject to the Act very often requires inspection of records which were made over a year previous. Therefore, the same two year recordkeeping period is proposed for carriers and intermediate handlers as is required for other persons subject to the Act.

Since the amendments to the Act have deleted the requirement that records be maintained on forms supplied by the Secretary, it is proposed that records for dealers, exhibitors, research facilities, and operators of auction sales be kept by one of three alternative methods: The first would be to utilize records created and used by such dealer, exhibitor, research facility, or operator of an auction sale unless disapproved by the Veterinarian in Chicago for not containing the information required by the regulations; the second would allow any such person who handles dogs and cats to continue using current forms which are supplied by the Secretary; and the third would provide for the use of a new form which is also being developed for health certification purposes.

The proposed amendments to the regulations cite specific information, similar to that required on VS Forms 18-5 and 18-6, revised, for dogs and cats and similar to that required on VS Forms 18-19 and 18-20, for animals other than dogs and cats, to be maintained by dealers, exhibitors, research facilities, and operators of auction sales. Such persons would be authorized to keep such information on their own forms and utilize their own recordkeeping system. Such methods of recordkeeping and forms would be required to contain the requisite information in a manner easily understood and not in any code such as a computer might use.

This proposed form of recordkeeping, (1) eliminates costly duplication of information and records, (2) provides the pertinent information necessary to trace stolen animals, and (3) satisfies the requirements of breed registries for transfer of ownership of dogs and cats without the use of additional forms.

There has been some misunderstanding concerning the circumstances under which records must be kept for animals as provided in the regulations (9 CFR 2.75-2.79). The regulations specifically require certain records to be kept with respect to each animal "purchased or otherwise acquired, held, transported, or sold, or otherwise disposed of" by a dealer, exhibitor, research facility, or operator of an auction sale. The Animal and Plant Health Inspection Service has interpreted these provisions as requiring such persons to identify in their records all animals in their possession or under their control. Otherwise, there is no way to be sure that persons subject to the Act are complying with the identification and recordkeeping requirements of the Act.

Therefore, in order to clarify this matter, it is proposed that the regulations be amended to specify that records must be kept by all dealers, exhibitors, research facilities, and operators of auction sales with respect to animals covered by the Act which are purchased, acquired, owned, held, or otherwise in their possession or under their control, including any offspring born of such animals while in their possession or under their control, transported, or sold, or otherwise disposed of by such persons.

The proposed amendments to the regulations would change the definition of the terms "commerce", "State", "dealer", "animal", "Act", and "registrant", and the definition of "affecting commerce" would be deleted and the term "in commerce" substituted throughout the regulations, to conform to the recent amendments to the Act. The proposed amendments to the regulations would also add new definitions for the terms "licensed veterinarian", "intermediate handler", "carrier", "attending veterinarian", and "weaned". It is also proposed that Part 1 of the regulations (9 CFR 1.1 et. seq.) be revised to rearrange the definitions in an appropriate order of associated subjects and to make certain other technical, nonsubstantive changes.

Prior to the recent amendments, the Act required any department, agency, or instrumentality of the United States having laboratory animal facilities to comply with the standards promulgated by the Secretary for research facilities, but did not require such department, agency, or instrumentality of the United States to submit an annual report showing that it follows professionally acceptable standards governing care, treatment and use of animals. The recent amendments to the Act require the submission of an annual report by such departments, agencies, or instrumentalities of the United States, and the regulations would be amended to require such reports.

The Animal and Plant Health Inspection Service proposes to add the term "testing" to the phrase "animals used in research or experimentation" in proposed § 2.28 of the regulations concerning what animals used by a research facility must be reported on its annual report. This proposal is intended to clarify the ambiguity created by using only the terms "research" and "experimentation" in present § 2.28 of the regulations (9 CFR 2.28) and the terms "research", "testing", and "experimentation" in other sections of the regulations. The addition of the term "testing" in proposed § 2.28 of the regulations would not change the meaning of that regulation since an "experiment" includes a "test".

Since many registered research facilities are, in fact, either University systems composed of several colleges located throughout a State or commercial companies with many research sites often located in several States, as are many departments, agencies, or instrumentalities of the United States, designation of the facility required to submit an annual report is changed in the proposed regula-

tion. It is proposed that each segment of a research facility or department, agency, or instrumentality of the United States using or intending to use live animals in research, testing, or experimentation under the control of an attending veterinarian or institutional committee be required to submit an annual report. The proposed required certification of the annual report by such attending veterinarian or institutional committee for the reporting facility, would thus be based on personal knowledge of the research, testing, or experimentation performed at the individual facility. This would appear to be an improvement over the present regulations which provide for certification by an attending veterinarian or institutional committee representing many facilities about which there may be neither personal knowledge nor personal attendance by such committee or veterinarian.

Present § 2.28 of the regulations (9 CFR 2.28) requires a research facility to state on its annual report the name and approximate numbers of animals used in research and the number of experiments conducted involving necessary pain or distress to the subject animals without the use of pain-relieving drugs. It has been the practice of research facilities in their annual reports to list the number of animals used in experiments without pain or distress, the number of animals used in experiments involving pain or distress for which pain-relieving drugs were used and the number of animals used in experiments involving pain or distress for which pain-relieving drugs were not used. Proposed § 2.28 of the regulations would reflect this practice, in accordance with the form used for such annual reports. Such information as required by proposed § 2.28 would also provide meaningful information concerning research involving animals to be included in the Annual Report to Congress required under the Act.

The Department proposes to change the time period covered by the annual report of research facilities to that of the Federal fiscal year of October 1, through the following September 30. This change would accommodate the Federal Departments, agencies, and instrumentalities whose financial and operational records are aligned with this particular 12 month period. Since the annual report is an indication of the kind and number of animals used and the type of research occurring in a 12 month period, changing the reporting period for the present registered research facilities would not create undue hardship in reporting.

In response to complaints of insufficient time to collect data, prepare the annual report, and obtain appropriate signatures by research facilities, the Department proposes a new submission date for annual reports of December 1, which would allow research facilities and Federal Departments, agencies, and instrumentalities two months to prepare and submit the annual report of research facilities for the previous Federal fiscal year. This proposal extends the period

for preparation and submission of the annual report by 30 days. The proposed submission date of December 1, will also allow this Department sufficient time for compilation of data, preparation, administrative clearance, printing, and submission of its annual report to Congress during March of each year, as required by law.

#### ECONOMIC IMPACT SUMMARY STATEMENT

1. Proposed action: Proposed rulemaking to amend the Animal Welfare regulations relative to a health certificate, minimum age requirements, and C.O.D. requirements for certain warmblooded animals transported in commerce; the annual reporting of research by registered research facilities and government agencies.

2. Duration: This is a Notice of Proposed Rulemaking with not less than a 30-day public comment period. The final rulemaking will not become effective until actual publication in the FEDERAL REGISTER.

3. Authority: The Animal Welfare Act (7 U.S.C. 2131 et seq.).

4. Agency: Animal and Plant Health Inspection Service, Veterinary Service, USDA.

5. Contact: Dr. D. F. Schwindaman, (301) 436-8271.

6. Date: February 11, 1977.

7. Impact Analysis Summary:

a. Cost impact effects: This proposed rulemaking is not considered to be inflationary according to the criteria established by the Department relative to the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107. The proposed amendments to the Animal Welfare regulations deal with four areas as discussed in detail in Attachment A. Price-quantity effects are summarized from each appropriate attachment as follows:

(1) Veterinary health certification (Attachment B)—The cost impact on USDA licensees and registrants, governmental agencies, and carriers and intermediate handlers is estimated to total \$3,135,000.

(2) Minimum age requirements (Attachment C)—Since major producers of dogs and cats have already established the 8 week minimum age within their industry, the cost impact of the proposal is believed negligible.

(3) C.O.D. requirements (Attachment D)—It is estimated that there will be no additional costs created by the guaranteed C.O.D. arrangement for animals shipped in commerce. The guaranteed C.O.D. arrangement will affect the consignee of animals only in cases where shipment is not accepted by the consignee.

(4) Submission of an Annual Report for certain animals used in research (Attachment E)—Cost impact is directed to Federal agencies which are required by law to submit an annual report showing compliance with acceptable standards for care, treatment, and use of animals. Estimated additional manpower (5,000 man-hours or 2.4 man-years) and monies (\$20,000), annually, will be required of Federal agencies.

Projected costs and manpower needs required by Veterinary Services to implement the veterinary health certification, minimum age requirements, C.O.D. requirements and annual reporting of Federal agencies for FY 1977 would total \$520,000 and 18.8 man-years.

b. Effect on productivity: No known effect on the productivity of wage-earners, businesses, or government.

c. Effect on competition: Veterinary health certification, C.O.D., and minimum age requirements are applicable only to transportation in commerce by carriers and intermediate handlers. Since the proposals affect all carriers and intermediate handlers, there is no limitation, concentration, or other unfair restriction placed on competition. Those individuals transporting warmblooded animals covered by the Act in personally owned vehicles are not subject to these requirements.

d. Supply of important materials: No known effect on materials or products. Services performed by carriers or intermediate handlers should not be affected by the proposed rulemaking.

e. Effect on employment: Certain requirements of the proposed rulemaking will require the employment of additional personnel by the carriers and intermediate handlers. Additional employees may be needed by some Federal agencies to meet the requirement of the annual report of research. None of the proposals will be cause for significant changes in employment.

f. Effect on energy supply—demand: No known significant requirements for energy to meet the proposed regulations.

g. Benefits: The estimated total additional costs of \$3,675,000 for this proposed rulemaking is offset by expected measurable benefits and intangible benefits.

The proposed requirement for veterinary health certification will result in lowered morbidity and mortality rates among puppies and kittens shipped in commerce. Many instances have been reported by humane organization personnel at airports whereby puppies and kittens were in poor general health and often sick when offered for transportation. A reduction in infectious diseases spread from animal to animal and from animal to man should result when animals infected with infectious diseases are not shipped with other healthy animals.

The guaranteed C.O.D. arrangement should effectively end the situation in which an animal is not accepted by the consignee and is left on a terminal dock without care or destination.

A required minimum age for puppies and kittens offered for transportation in commerce will prevent the very young and often unweaned animal from being subjected to the stress and physical trauma of such long trips.

These proposals are only a part of the 1976 Amendments to the Animal Welfare Act which will establish standards designed to assure the safe transportation and humane treatment of animals shipped in commerce. The effect will be

an increased support for humane care of animals and a substantial monetary saving to American consumer through reduced cost for pet replacement.

**AN ANALYSIS OF THE ECONOMIC IMPACT OF AMENDMENTS TO ANIMAL WELFARE REGULATIONS**

This statement is an examination of the economic impact of a proposed rulemaking amending the Animal Welfare regulations as mandated by certain provisions of the Animal Welfare Act Amendments of 1976 (Public Law 94-279).

With the passage of the Laboratory Animal Welfare Act of 1966 (Public Law 89-544), as amended by the Animal Welfare Act of 1970 (Public Law 91-570), Congress provided Federal statutory authority to ensure the humane treatment of animals. However, the 1966 Act and the 1970 amendments did not give the Secretary of Agriculture similar authority to regulate the treatment of animals shipped in commerce by commercial carriers and intermediate handlers. In recent years, as the number of animals shipped has increased, the number of deaths and injuries to such animals has increased as well. In response to this situation, Congress initiated legislation which resulted in the enactment of the Animal Welfare Act Amendments of 1976 (Public Law 94-279) on April 22, 1976.

The 1976 amendments bring carriers and intermediate handlers within the class of persons regulated under the statute and require them to adhere to humane standards promulgated by the Secretary with respect to the transportation affecting commerce of all animals protected by the Act. Provisions of the amendments prohibit delivery to an intermediate handler or carrier for transportation in commerce of any dog, cat or other animal designated by the Secretary without a licensed veterinarian's certificate. C.O.D. shipment of animals is prohibited unless the consignor guarantees the payment of round-trip transportation charges and expenses incurred in their care. Acceptance of any dog, cat, or animal designated by the Secretary at an age less than that prescribed by the Secretary for transportation in commerce by an intermediate handler or carrier is prohibited. Also included was a provision requiring that Federal agencies report at least annually to the Secretary that professionally acceptable standards governing the care, treatment, and use of animals are being followed.

For easier presentation, the health certificate, minimum age requirement, C.O.D. requirement, and changes in the annual reporting of research by registered research facilities and government agencies are discussed separately (Attachments B, C, D, and E, respectively).

**ATTACHMENT B**

**VETERINARY HEALTH CERTIFICATION**

The 1976 Amendments direct the Secretary of Agriculture to require that prior to shipment in commerce, dogs, cats, and any other designated animals be examined by a licensed veterinarian to ensure that they are free of infectious disease or physical abnormalities. The animal is then to be accompanied by a certificate issued by the examining veterinarian who certifies that he inspected the animal on a specified date which shall not be more than ten days before delivery to a carrier or intermediate handler. A former proposed which may be used for such health certification, as well as for identification of animals and recordkeeping by persons subject to the Act.

**COMPLIANCE COSTS**

Proposed amendments to Parts 1 and 2 of Title 9, CFR, would require USDA licensees

and registrants (dealers, research facilities, exhibitors, and operators of an auction sale), and any department, agency, or instrumentality of the United States or any State or local governments to provide a health certificate for live dogs, cats and nonhuman primates presented to a carrier or an intermediate handler for transportation in commerce. Other persons are not required by law to obtain a health certificate for privately owned dogs, cats or nonhuman primates transported in commerce by carriers or intermediate handlers.

Information obtained from Veterinary Services' computerized central records which are based on a required annual report submitted by USDA licensees would appear to be a reliable indication of animals transported in commerce. All USDA licensees must report the kind and number of animals handled in a twelve month period as a requirement of the Act and regulations (9 CFR, Part 2) for renewal of their license. A total of 299,176 dogs, 92,473 cats, and 17,151 nonhuman primates were shipped commercially in calendar year 1976; therefore, indicating a grand total of almost 409,000 of these particular animals transported by carriers and intermediate handlers.

A survey which included USDA, Extension Service veterinarians, State regulatory veterinarians, veterinary science professors, and veterinary association presidents was used to determine the average cost of veterinary health certification. Veterinary health certification includes examination of an animal and completion of a health certificate by a licensed veterinarian. Average cost of an individual veterinary health certificate was determined to be \$8.00 (\$6.00 minimum to a \$11.00 maximum) in Eastern USA and \$5.00 (\$3.00 minimum to an \$8.00 maximum) in the "Midwest" of this country. The survey indicated that some veterinarians located in Kansas charged as little as \$1.25 per dog and cat when at least 30 such animals were examined and certification completed during one office or field call. It should be noted that the midwestern region is the largest supplier of puppies and kittens for retail sales.

Cost of veterinary health certification to USDA licensees and registrants is calculated to be \$2,680,000 (\$6.50 average cost of health certification X 409,000 dogs, cats, and nonhuman primates transported in commerce), annually. It is projected that this expense will be passed along to the consumer in the form of a commensurate price increase for dogs, cats, and nonhuman primates supplied to retailers of pet animals.

Costs to the carriers and intermediate handlers for the veterinary health certification requirements is projected in the additional expense of employee time required to answer inquiries and process the accepted delivery of dogs, cats, and nonhuman primates from USDA licensees and registrants for transportation in commerce. Based on Department records for 1976, there is an estimated 409,000 shipments, annually, of dogs, cats, and nonhuman primates in commerce. Processing an individual animal shipment requires a maximum of five minutes (labor costs—\$13.95 per hour average hourly wage rate—air carriers) creates a projected annual cost of approximately \$475,000 to the carriers and intermediate handlers. Information regarding the "average hourly wage rate, all inclusive USA" for carriers was provided by the Air Transportation of America.

Additional costs to the carriers and intermediate handlers created by the required storage of the records, i.e., health certificate filed with transportation way bills is expected to be negligible.

Calculation of the cost impact of the proposed rulemaking relating to veterinary health certification is based on those esti-

mated costs which will be over and above the normal operating costs now being incurred by the affected industries. The cost impact of veterinary health certification is estimated to total \$3,135,000.

**ATTACHMENT C**

**MINIMUM AGE REQUIREMENTS**

Proposed changes to Parts 1 and 2 (9 CFR) would require that a minimum age of 8 weeks be established for dogs and cats presented by any person (including private owners) to a carrier or intermediate handler. The Department also proposes that such dogs and cats be weaned for a period of at least five days. Certain exceptions are proposed for specified animals which are shipped to research facilities and are less than 8 weeks of age. The exception is provided for in the Act, as amended.

**COMPLIANCE COSTS**

Scientific information indicates that the 8 week old puppy or kitten which is weaned is able to tolerate the rigor of commercial transportation. Information obtained from producers of puppies and kittens indicates that the 8 week old puppy or kitten can be and is presently being produced at a reasonable cost to the consumer. It is therefore projected that the proposed requirement of an 8 week minimum age for dogs and cats will not create additional costs to the producer.

Alternatives considered for a minimum age limit on shipping dogs and cats in commerce included setting the minimum age limit at 6 weeks. The lower minimum age offers the producer the opportunity to ship younger animals at lower production costs. Information from producers indicates that production costs for puppies and kittens is \$.50 per day for each animal. However, increased morbidity and mortality occurs when such puppies and kittens (approximately 390,000 puppies and kittens shipped in commerce in 1976 according to USDA Animal Care computerized records) are shipped in commerce. These losses would offset a substantial portion of the reduction in production costs.

An additional alternative considered setting the minimum age at 10 weeks for shipping dogs and cats. The American Dog Owners Association and several humane organizations have provided information which shows that minimum mortality and morbidity occurs when older puppies and kittens are shipped in commerce. However, puppies and kittens which are 10 weeks old or older have lost their consumer appeal resulting in reduced sales, and increased production costs to the producer. An added production cost of \$7.00 per puppy and kitten is estimated. A total increased cost of \$2,730,000 (\$7.00 X 390,000) annually would be created and passed along to the purchaser of puppies and kittens.

The cost impact of the proposed 8 week minimum age requirements for shipping puppies and kittens is believed negligible. Major producers of such animals have already established the 8 week minimum age within their industry.

**ATTACHMENT D**

**C.O.D. REQUIREMENTS**

As required by the Act, as amended, the Department proposes that no C.O.D. type arrangement will be used in the transportation of animals by intermediate handlers or carriers in commerce unless the consignor guarantees in writing the payment of all transportation costs, including any return transportation, and any other incidental or

out-of-pocket expenses involved for the care, feeding, and storage or housing of the animal if the consignee fails to accept delivery of the shipment within 48 hours of notification.

#### COMPLIANCE COSTS

There will be no additional costs to the present established C.O.D. arrangement unless the consignee fails to claim the animal at destination. However, there is no way to estimate the cost of return transportation and other incidental expenses to the individual consignor should the animal shipment not be claimed. Such additional costs will be dependent upon the distance to be transported and number of animals involved in the return trip.

It is estimated that there will be no additional costs to the carrier and intermediate handlers to process the "guaranteed C.O.D." arrangement since the guarantee statement signed by the consignor will be incorporated in the way bill or transportation document.

The cost impact of the mandated guaranteed C.O.D. arrangement for animals shipped in commerce is believed to be negligible in that it affects the consignor of animals only in cases where shipment is not accepted by consignee.

#### ATTACHMENT E

#### SUBMISSION OF AN ANNUAL REPORT FOR CERTAIN ANIMALS USED IN RESEARCH

Prior to the recent amendments, the Act required any department, agency, or instrumentality of the United States having laboratory animal facilities, to comply with the standards promulgated by the Secretary for research facilities, but did not require such department, agency, or instrumentality of the United States to submit an annual report showing it follows professionally acceptable standards governing care, treatment, and use of animals. The recent amendments to the Act require the submission of an annual report, by Federal agencies and the regulations would be amended to require such reports.

The Department proposes to change the time period covered by the annual report of research facilities to that of the Federal fiscal year of October 1, through the following September 30. This change accommodates the Federal agencies; allows the present registered research facilities additional time to prepare and submit the annual report; and allows the Department sufficient time for compilation of data, preparation, administrative clearance, printing, and submission of its annual report to Congress during March of each year.

#### COMPLIANCE COSTS

There is no additional costs to the present registered research facilities associated with the proposed change in the reporting period and date that the report is due.

It is estimated that additional personnel time will be required by Federal agencies to compile data, prepare and submit the report mandated by the law. Preliminary information indicates that approximately 125 Federal facilities will each require an estimated 40 hours annually to gather information and complete the annual report. A total annual cost of \$20,000 (125 facilities × 40 hours × \$4.00 per hour (GS-4) = \$20,000) and 5,000 man-hours (2.4 man-years) is estimated for Federal agencies to comply with the law.

Accordingly, Parts 1 and 2 of Title 9, CFR, would be amended in the following respects:

1. Section 1.1 would be revised to read as follows:

#### § 1.1 Definitions.

For the purpose of this subchapter, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Act of August 24, 1966 (Pub. L. 89-544), commonly known as the Laboratory Animal Welfare Act, as amended by the Act of December 24, 1970 (Pub. L. 91-579), the Animal Welfare Act of 1970, and the Act of April 22, 1976 (Pub. L. 94-279), The Animal Welfare Act Amendments of 1976.

(b) "Department" means the U.S. Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the Department.

(d) "Administrator" means Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other official of the Animal and Plant Health Inspection Service to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(e) "Veterinary Services" means the office of the Animal and Plant Health Inspection Service to which is assigned responsibility for performance of functions under the Act.

(f) "Deputy Administrator" means the Deputy Administrator for Veterinary Services or any other official of Veterinary Services to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(g) "Veterinarian in Charge" means a veterinarian of Veterinary Services who is assigned by the Deputy Administrator to supervise and perform the official work of Veterinary Services in a given State or States. As used in Part 2 of this subchapter, the Veterinarian in Charge shall be deemed to be the one in charge of the official work of Veterinary Services in the State in which the dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale has his principal place of business.

(h) "Veterinary Services representative" means any inspector or other person employed full time by the Department who is responsible for the performance of the function involved.

(i) "Licensed veterinarian" means a doctor of veterinary medicine who has a valid license to practice veterinary medicine in any State.

(j) "State" means a State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

(k) "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(l) "Dog" means any live or dead dog (*Canis familiaris*).

(m) "Cat" means any live or dead cat (*Felis catus*).

(n) "Animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or any other warmblooded animal, which is domesticated or raised in captivity or which normally can be found in the wild state, and is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet. Such term excludes birds, aquatic animals, rats and mice, and horses and other farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management of production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs, including those used for hunting, security, or breeding purposes.

(o) "Farm animal" means any warm-blooded animal (other than a dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, or rabbit) normally raised on farms in the United States and used or intended for use as food or fiber.

(p) "Wild state" means living in its original, natural condition; not domesticated.

(q) "Nonhuman primate" means any nonhuman member of the highest order of mammals, including prosimians, monkeys, and apes.

(r) "Commerce" means trade, traffic, transportation, or other commerce—(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia; or (2) which affects trade, traffic, transportation or other commerce described in paragraph (r)(1) of this section.

(s) "Research Facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided, however,* That a "research facility" shall not include any such school, institution, organization, or person that does not use or intend to use live dogs or cats and which is exempted by the Administrator, upon application to him in specific cases and upon his determination that such exemption does not vitiate the purpose of the Act, except that the Administrator will not exempt any school, institution, organization, or person that uses substantial numbers of live animals—the principal function of which school, institution, organization, or person is biomedical research or testing.

(t) "Dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports,



except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

(i) A retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

(ii) Any person who does not sell or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year.

(u) "Retail pet store" means any retail outlet where animals are sold only as pets at retail. Those species from the wild state (e.g. primates, anteaters, and ocelots) and which as adults in captivity require special conditions to provide safety in handling to either humans or the subject animals shall not be considered as pet animals.

(v) "Operator of an auction sale" means any person who is engaged in operating an auction at which animals are purchased or sold, in commerce.

(w) "Exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary in specific instances, and such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary in specific instances.

(x) "Licensee" means any person licensed pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(y) "Class 'A' dealer" means a dealer whose business involving animals includes only those animals that he breeds and raises as a closed or stable colony and those animals that he acquires for the sole purpose of maintaining or enhancing his breeding colony.

(z) "Class 'B' dealer" means any dealer who does not meet the definition of a Class "A" dealer.

(aa) "Class 'C' licensee" means any exhibitor subject to the licensing requirements.

(bb) "Intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, or any person excluded from the definition of a dealer, research facility, exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce.

(cc) "Carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise which is engaged in the business of transporting any animals for hire.

(dd) "Registrant" means any research facility, carrier, intermediate handler, or exhibitor registered pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(ee) "Attending veterinarian" means a person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education or has a certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates and who is responsible for evaluating the type and amount of anesthetic, analgesics and tranquilizing drugs used on animals during actual research, testing, or experimentation where appropriate to relieve all unnecessary pain and distress in the subject animals.

(ff) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by dealers, exhibitors, research facilities, carriers, intermediate handlers, and operators of auction sales as set forth in Part 3 of this subchapter.

(gg) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

(hh) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(ii) "Sanitize" means to make physically clean and to remove and destroy, to the maximum degree that is practical, agents injurious to health.

(jj) "Ambient temperature" means the temperature surrounding the animal.

(kk) "Euthanasia" means the humane destruction of an animal accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress, or a method that utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

(ll) "Nonconditioned animals" means animals which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary, to improve their health to make them more suitable for research purposes.

(mm) "Weaned" means that an animal has become accustomed to take solid

<sup>1</sup> The name and address of the Veterinarian in Charge in the State concerned can be obtained by writing to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Md. 20782.

<sup>2</sup> A list of such exempted schools, institutions, organizations, or persons shall be published periodically by Veterinary Services in the Federal Register. Such lists may also be obtained upon request from the Veterinarian in Charge.

food, and has so done, without nursing, for a period of at least five (5) days.

(nn) "Dwarf hamster" means any species of hamster, such as the Chinese and Armenian species, whose adult body size is substantially less than that attained by the Syrian or Golden species of hamsters.

(oo) "Handling" means petting, feeding, manipulation, crating, shifting, transferring, immobilizing, restraining, treating, training, working or performing any similar activity with respect to any animal.

(pp) "Business year" means a 12-month period during which business is conducted, either on a calendar or fiscal year basis.

2. The Table of Contents cited in Part 2—Regulations would be revised as follows:

## PART 2—REGULATIONS LICENSING

Sec.	Application.
2.1	Acknowledgment of standards.
2.2	Demonstration of compliance with standards.
2.3	Issuance of licenses.
2.4	Duration of license.
2.5	Annual fees; and termination of licenses.
2.6	Annual report by licensees.
2.7	Notification of change of name, address, control, or ownership of business.
2.8	Officers, agents, and employees of licensees, whose licenses have been suspended or revoked.
2.9	Licensees whose licenses have been suspended or revoked.
2.10	Denial of license.
2.11	
	REGISTRATION
2.25	Requirements and procedures.
2.26	Acknowledgement of standards.
2.27	Notification of change of operation.
2.28	Annual report of research facilities.

## IDENTIFICATION OF ANIMALS

2.50	Time and method of identification.
2.51	Form of official tag.
2.52	How to obtain tags.
2.53	Use of tags.
2.54	Lost tags.
2.55	Removal of tag.

## RECORDS

2.75	Records, dealers (except operators of auction sales) and exhibitors.
2.76	Records, research facilities.
2.77	Records, operators of auction sales.
2.78	Records, carriers and intermediate handlers.
2.79	Health certification and identification.
2.80	C.O.D. shipments.
2.81	Records, disposition.

## COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

2.100	Compliance with standards.
2.101	Holding period.

## MISCELLANEOUS

2.125	Information as to business: Furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.
2.126	Access and inspection of records and property.
2.127	Publication of names of persons subject to the provisions of this part.

## Sec.

- 2.128 Inspection for missing animals.  
 2.129 Confiscation and destruction of animals.  
 2.130 Minimum age requirements.

**AUTHORITY:** The provisions of this Part 2 issued under secs. 3, 5, 6, 10, 11, 12, 13, 14, 16, 17, 21, 80 Stat. 351, 352, 353, 84 Stat. 1561, 1562, 1563, 1564, 90 Stat. 418, 419, 420, 423; 7 U.S.C. 2133, 2135, 2136, 2140, 2141, 2142, 2143, 2144, 2146, 2147, 2151; 37 FR 28464, 28477, 38 FR 19141.

3. Throughout Part 2 of the regulations (9 CFR, Part 2) wherever the term "affecting commerce" appears, the term "in commerce" would be substituted in lieu thereof.

4. Section 2.25 (9 CFR 2.25) would be revised to read as follows:

**§ 2.25 Requirements and procedures.**

Each research facility, carrier, and intermediate handler and each exhibitor, not required to be licensed under section 3 of the Act and the regulations of this subchapter, shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the Veterinarian in Charge. Such registration form shall be filed with the Veterinarian in Charge for the State in which the registrant has his principal place of business. Where a school or department of a university or college uses or intends to use animals for research, tests, or experiments, the university or college rather than the school or department will generally be considered the research facility and be required to register with the Secretary. In any situation in which a school or department of a university or college is a separate legal entity and its operations and administration are independent of those of the university or college, upon a proper showing thereof to the Secretary, the school or department will be registered rather than the university or college. A subsidiary of a business corporation, rather than a parent corporation, will be registered as a research facility or exhibitor unless the subsidiary is under such direct control of the parent corporation that to effectuate the purposes of the Act the Secretary determines that it is necessary that the parent corporation be registered.

5. Section 2.28 (9 CFR 2.28) would be revised to read as follows:

**§ 2.28 Annual report of research facilities.**

(a) The reporting facility shall be that segment of the research facility, or that department, agency, or instrumentality of the United States, that uses or intends to use live animals in research, tests, or experiments and for which an attending veterinarian has responsibility. Each reporting facility shall submit on or before December 1 of each calendar year to the Veterinarian in Charge for the State where the reporting facility is located, an annual report signed by a legally responsible official covering the previous Federal fiscal year of October 1 through September 30. Such report shall show that professionally acceptable standards governing the care, treatment, and use

of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during actual research, testing, or experimentation, were followed by the research facility, department, agency, or instrumentality of the United States. Such report shall include:

(1) The location of the facility or facilities where animals were used in actual research, testing, or experimentation;

(2) The common names and approximate numbers of animals upon which research experiments or tests were conducted involving no pain, distress, or use of pain relieving drugs: *Provided, however,* That routine procedures (e.g. injections, tattooing, and blood sampling) do not need to be reported;

(3) The common names and approximate numbers of animals upon which experiments or tests were conducted involving accompanying pain or distress to the animals and for which appropriate anesthetic, analgesic, or tranquilizing drugs were used: *Provided, however,* That routine procedures (e.g. injections, tattooing, and blood sampling) do not need to be reported;

(4) The common names and approximate numbers of animals upon which experiments or tests were conducted involving accompanying pain or distress to the animals and for which the use of appropriate anesthetic, analgesic, or tranquilizing drugs would adversely affect the procedures, results, or interpretation of the research, experiments, or tests and a brief statement explaining the reasons for the same: *Provided, however,* That routine procedures (e.g. injections, tattooing, and blood sampling) do not need to be reported; and

(5) Certification by the attending veterinarian of the research facility, or the department, agency, or instrumentality of the United States having laboratory animal facilities, or by an institutional committee of at least three members, one of whom is a Doctor of Veterinary Medicine, established for the purpose of evaluating the care, treatment, and use of all warmblooded animals held or used for research, testing, or experimentation, that the type and amount of anesthetic, analgesic, and tranquilizing drugs used on animals during actual research, testing, or experimentation was appropriate to relieve pain and distress for the subject animals.

**§ 2.50 [Amended]**

6. In § 2.50(f) subparagraph (3) would be amended by deleting the words "a form" and substituting the phrase "on a record, as required by § 2.75," therefor, and footnote<sup>2</sup> would be deleted.

**§ 2.52 [Amended]**

7. In § 2.52 the reference to footnote<sup>3</sup> and footnote<sup>2</sup> would be redesignated as footnote<sup>2</sup>.

8. Section 2.75 (9 CFR 2.75) would be revised to read as follows:

**§ 2.75 Records, dealers and exhibitors.**

(a) (1) Every dealer and exhibitor shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information

concerning each dog or cat purchased or otherwise acquired, owned, held or otherwise in his possession or under his control, including any offspring born of such animal while in his possession or under his control, transported, or sold or otherwise disposed of:

(i) The name and address of the person, whether or not required to be licensed or registered under the Act, from whom such dog or cat was purchased or otherwise acquired, and his license number, if licensed under the Act, and when sold or otherwise disposed of, the person to whom sold or otherwise disposed of, and his license number, if licensed under the Act;

(ii) The dates of acquisition or birth and disposition of such dog or cat;

(iii) The official USDA tag number or tattoo assigned to such dog or cat pursuant to § 2.50 and § 2.54;

(iv) A description of each dog or cat which shall include:

(A) The species;

(B) The sex;

(C) The date of birth or approximate age;

(D) The color and any distinctive markings; and

(E) The breed or type.

(v) The method of transportation including the name of the commercial carrier or intermediate handler or privately owned conveyance used to transport the dog or cat;

(vi) The date and method of disposition of such dog or cat, e.g. sale, death, euthanasia, or donation.

(2) Record of Dogs and Cats on Hand (VS Form 18-5) and Record of Disposition of Dogs and Cats (VS Form 18-6) are forms which may be used by dealers and exhibitors upon which to make, keep, and maintain the information required by paragraph (a) (1) of this section concerning dogs and cats except as provided in § 2.79.

(3) Part A of the USDA Individual Health Certificate and Identification Form (VS Form 18-1) is a form which may be used by dealers and exhibitors upon which to make, keep, and maintain the information required by paragraph (a) (1) of this section except as provided in § 2.79.

(4) One copy of the record containing the information required by paragraph (a) (1) of this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a) (1) of this section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a) (1) of this section shall be retained by the dealer or exhibitor.

(b) (1) Every dealer and exhibitor shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held or otherwise in his possession or under his control, including any offspring born of such animals while in

his possession or under his control, transported, or sold or otherwise disposed of:

(i) The name and address of the person, whether or not required to be licensed or registered under the Act, from whom such animals other than dogs or cats, were purchased or otherwise acquired, and his license number, if licensed under the Act, and when sold or otherwise disposed of, the person to whom sold or otherwise disposed of, and his license number, if licensed under the Act;

(ii) The species of such animals other than dogs and cats, and

(iii) The number of such animals other than dogs and cats.

(2) Record of Animals on Hand (Other Than Dogs and Cats) (VS Form 18-19) and Record of Acquisition, Disposition or Transport of Animals (Other Than Dogs and Cats) (VS Form 18-20) are forms which may be used by dealers, and exhibitors upon which to keep and maintain the information required by paragraph (b) (1) of this Section concerning animals other than dogs and cats except as provided in § 2.79.

(3) One copy of the record containing the information required by paragraph (b) (1) of this section shall accompany each shipment of any animal other than a dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (b) (1) of this section shall accompany each shipment of any animal other than a dog or cat sold or otherwise disposed of by a dealer or exhibitor. One copy of the record containing the information required by paragraph (b) (1) of this section shall be retained by the dealer or exhibitor.

9. Section 2.76 (9 CFR 2.76) would be revised to read as follows:

§ 2.76 Records, research facilities.

(a) Every research facility shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning each live dog or cat purchased or otherwise acquired, owned, held or otherwise in its possession or under its control, including any offspring born of such live dog or cat while in its possession or under its control:

(1) The name and address of the person, whether or not required to be licensed or registered under the Act, from whom such live dog or cat was purchased or otherwise acquired and his license number, if licensed under the Act;

(2) The date of acquisition or birth of each live dog or cat;

(3) The official USDA tag number or tattoo assigned to each live dog or cat pursuant to § 2.50 and § 2.54;

(4) A description of each live dog or cat which shall include:

(i) The species;

(ii) The sex;

(iii) Date of birth or approximate age;

(iv) The color and any distinctive markings; and

(v) The breed or type.

(5) Any identification number or mark assigned to each live dog or cat by such research facility.

(b) In addition to the information required to be kept and maintained by every research facility concerning each live dog or cat, pursuant to paragraph (a) of this section, every research facility transporting, selling, or otherwise disposing of any live dog or cat to another person, shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information:

(1) The name and address of the receiver to whom such live dog or cat is transported, sold or otherwise disposed of;

(2) The date of such transportation, sale, or other disposition, and

(3) The method of transportation including the name of the commercial carrier or intermediate handler, or privately owned conveyance used to transport the dog or cat.

(c) Part A of the USDA Individual Health Certificate and Identification Form (VS Form 18-1) and Record of Dogs and Cats on Hand (VS Form 18-5) are forms which may be used by research facilities upon which to keep and maintain the information required by paragraph (a) of this section. Part A of the USDA Individual Health Certificate and Identification form (VS Form 18-1) and Record of Disposition of Dogs and Cats (VS Form 18-6) are forms which may be used by research facilities upon which to keep and maintain the information required by paragraph (b) of this section.

(d) One copy of the record containing the information required by paragraphs (a) and (b) of this section shall accompany each shipment of any live dog or cat sold, or otherwise disposed of by a research facility, and one copy of the record shall be retained by the research facility.

10. Section 2.77 (9 CFR 2.77) would be revised to read as follows:

§ 2.77 Records, operators of auction sales.

(a) Every operator of an auction sale shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning each animal consigned for auction, whether or not a fee or commission is charged:

(1) The name and address of the person who owned or consigned the animal for sale and his USDA license number, if licensed under the Act;

(2) The date of the consignment;

(3) The official USDA tag number or tattoo assigned to the animal pursuant to § 2.50 and § 2.54;

(4) A description of the animal which shall include:

(i) The species of the animal;

(ii) The sex of the animal;

(iii) The color and any distinctive markings on the animal;

(iv) The breed or type of the animals, if a dog or cat.

(5) The auction sales number assigned to the animal;

(6) The name and address of the buyer of the animal and his license number if licensed under the Act.

(b) One copy of the record containing the information required by paragraph (a) of this section shall be given to the consignor of each animal, one copy of the record shall be given to the purchaser of each animal, and one copy of the record shall be retained by the operator of such auction sale for each animal sold by the auction sale.

11. Section 2.78 would be revised to read as follows:

§ 2.78 Records, carriers and intermediate handlers.

(a) In connection with all live animals accepted for shipment on a C.O.D. basis or other arrangement or practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, the accepting carrier and intermediate handler, if any, shall keep and maintain a copy of the guarantee in writing of the consignor of such shipment for the payment of transportation charged for any animal not claimed, as provided in § 2.80, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animal.

(b) In connection with all live dogs, cats, or nonhuman primates delivered for transportation, in commerce, to any carrier or intermediate handler, by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, the accepting carrier and intermediate handler if any shall keep and maintain a copy of the health certification completed as required by § 2.79, tendered with each such live dog, cat, or nonhuman primate.

12. Section 2.79 (9 CFR 2.79) would be revised to read as follows:

§ 2.79 Health certification and identification.

(a) No dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government shall deliver to any intermediate handler or carrier for transportation, in commerce, any dog, cat, or nonhuman primate unless such dog, cat, or nonhuman primate shall be accompanied by a health certificate executed and issued by a licensed veterinarian. Such health certificate shall state that

(1) the licensed veterinarian inspected such dog, cat, or nonhuman primate on a specified date which shall not be more than 10 days prior to the delivery of such dog, cat, or nonhuman primate for transportation, in commerce, and (2) when so inspected that such dog, cat, or nonhuman primate appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health.

(b) No intermediate handler or carrier to whom any live dog, cat, or nonhuman primate is delivered for transportation, in commerce, by any dealer,



## PROPOSED RULES

research facility, exhibitor, operator of an auction sale, or department, agency or instrumentality of the United States or any State or local government shall receive such live dog, cat, or nonhuman primate for transportation, in commerce, unless and until it is accompanied by a health certificate issued by a licensed veterinarian pursuant to paragraph (a) of this section.

(c) Part (D) of the USDA Individual Health Certificate and Identification Form (VS Form 18-1) is a form which may be used for Health Certification by a licensed veterinarian as required by this section.

13. A new § 2.80 (9 CFR 2.80) would be added as follows:

**§ 2.80 C.O.D. shipments.**

(a) No carrier or intermediate handler shall accept any animal for transportation, in commerce, upon any C.O.D. or other basis where the cost of the animal or the cost for any such transportation or any other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal to the consignee, unless the consignor guarantees in writing the payment of all transportation, including any return transportation, if such shipment is unclaimed or the consignee cannot be notified in accordance with paragraphs (b) and (c) of this section, including reimbursing the carrier or intermediate handler for all out-of-pocket expenses incurred for the care, feeding, and storage or housing of such animal.

(b) Any carrier or intermediate handler receiving any animal at destination on a C.O.D. or other basis where the cost of the animal or the cost for any transportation or other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal to the consignee shall attempt to notify such consignee for a period of 24 hours after arrival of the animal at destination, at least once every 6 hours during that period. The time, date, and method of each notification to the consignee and the person notifying the consignee shall be noted on the form accompanying the C.O.D. shipment. If the consignee cannot be notified of the C.O.D. shipment within 24 hours after arrival of the shipment, the carrier or intermediate handler shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in paragraph (a) of this section and so notify the consignor. Any carrier or intermediate handler which has notified a consignee of the arrival of a C.O.D. or other shipment of an animal where the cost of the animal or the cost for any transportation or other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal to the consignee, which is not claimed by such consignee within 48 hours from the time of such notification, shall return the animal to the consignor or to whomever the consignor has designated, on the next practical

available transportation, in accordance with the written agreement required in paragraph (a) of this section and so notify the consignor.

(c) It shall be the responsibility of any carrier or intermediate handler to provide proper care, feeding, and storage or housing for any animal accepted for transportation in commerce, under a C.O.D. or other arrangement where the cost of the animal or the cost for any transportation or other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal until the consignee accepts shipment at destination or until returned to the consignor or his designee should the consignee fail to accept delivery of the animal or the consignee could not be notified as prescribed in paragraph (b) of this section.

(d) Nothing in this section shall be construed as prohibiting any carrier or intermediate handler from requiring any additional guarantee than that required in paragraph (a) of this section for the payment of the cost of any transportation or out-of-pocket or other incidental expenses incurred in the transportation of any animal in commerce.

14. A new § 2.81 would be added as follows:

**§ 2.81 Records, disposition.**

(a) No dealer, exhibitor, operator of an auction sale, research facility, carrier or intermediate handler shall, within a period of 2 years from the making thereof, destroy or dispose of, without the consent in writing of the Deputy Administrator, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) The records required to be kept and maintained under this part shall be held for such period in excess of the period specified in paragraph (a) of this section as necessary to comply with any other Federal, State, or local law. Whenever the Deputy Administrator notifies a dealer, exhibitor, operator of an auction sale, research facility, carrier, or intermediate handler in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, such dealer, exhibitor, operator of an auction sale, research facility, carrier, or intermediate handler shall hold such records until their disposition is authorized by the Deputy Administrator.

15. A new § 2.130 would be added as follows:

**§ 2.130 Minimum age requirements.**

No dog or cat shall be delivered by any person to any carrier or intermediate handler for transportation, in commerce, except to a registered research facility, unless such dog or cat is at least eight (8) weeks of age and has been weaned.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S.

Department of Agriculture, Hyattsville, Maryland 20782, before April 18, 1977.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 769, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of March 1976.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,  
Acting Deputy Administrator,  
Veterinary Services.

[FR Doc.77-7681 Filed 3-14-77;8:45 am]

**DEPARTMENT OF LABOR**

Occupational Safety and Health  
Administration

[ 29 CFR Parts 1910, 1928 ]

[Docket No. H-052]

**PROPOSED STANDARD FOR EXPOSURE  
TO COTTON DUST**

**Scheduling of Informal Public Hearings;  
Additional Locations**

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of Additional Locations for Informal Hearings; (2) Notice of Recess of Washington Hearing from April 11 until April 18, 1977.

SUMMARY: This notice schedules two regional hearings concerning the proposed standard for occupational exposure to cotton dust. The previously announced Washington hearing will begin on April 5, 1977, and will be recessed from April 11 until April 18, 1977, when it will resume.

The purpose of holding these regional hearings is to permit persons who are unable to attend the Washington hearing, particularly small businesses and individual employees, the opportunity to orally present their views to the Agency.

DATES: All notices of intention to appear at these two regional hearings must be filed by April 1, 1977.

Dates on which regional hearings will begin, locations and times are as follows:

April 12, 1977: 9:30 a.m., Downtown Motor Inn, Plantation Room, 218 Washington Avenue, Greenville, Mississippi.

May 10, 1977: 9:30 a.m., South Park Inn, Patio West Room, 3201 S. Loop 289, Lubbock, Texas.

ADDRESS: Send notices of intention to appear to: OSHA Office of Committee Management Docket No. H-052. Room

N-3633 U.S. Department of Labor 3rd and Constitution Avenue, NW., Washington, D.C. 20210

**FOR FURTHER INFORMATION CONTACT:**

Tom Hall, address as above, (202) 523-8025.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

On December 28, 1976, OSHA published in the *FEDERAL REGISTER* (41 FR 56498) a proposed standard for occupational exposure to cotton dust together with a notice of an informal hearing to commence on April 5, 1977, at 9:30 a.m., in the Departmental Auditorium on Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. The deadline for submitting written comments and notices of intention to appear at the Washington hearing was March 4, 1977. The notice of proposed rulemaking published on December 28, 1976, discusses the issues that are involved in these proceedings.

**PUBLIC PARTICIPATION AT REGIONAL HEARINGS**

OSHA is now scheduling two regional hearings on the cotton dust proposal, at the times and places stated above, to provide interested persons who are unable to attend the Washington hearing the opportunity to make brief oral presentations to the Agency on any of the issues involved in these proceedings. These hearings are particularly designed to provide an opportunity for small businesses and employees who may not have the resources to appear at the hearing in Washington to more fully participate in the cotton dust rulemaking proceeding. In order to allow as many people as possible to participate in these informal hearings, presentations will generally be limited to 15 minutes. We will attempt, however, within the time available, to accommodate any requests for additional time which are made necessary by special circumstances.

In view of the brief duration of these regional hearings, OSHA requests interested persons who are able to attend the Washington hearing to present their testimony in Washington. OSHA will make its presentation and will be available for questioning only at the beginning of the hearing in Washington. In addition, the expert witnesses who have been asked by

OSHA to testify are scheduled to appear only in Washington.

**REQUESTS TO PARTICIPATE**

All persons who want to participate in either of these informal regional hearings should file a notice of intention to appear, postmarked on or before April 1, 1977, with Tom Hall at the above address. The notice must contain the following information:

- (1) The hearing location—Greenville or Lubbock—at which you wish to testify;
- (2) The name, address, and telephone number of each person to appear;
- (3) The organization, if any, which the person represents;
- (4) The issues that will be addressed and a brief statement of your views; and
- (5) Complete copies of any studies, scientific or economic data, or any other documentary materials which you will be presenting for the record or discussing at the hearing.

All persons giving advance notice as above will have time reserved for oral presentation. Persons wishing to testify who have not submitted advance notice, will be allowed to make oral presentations if time permits; however, priority will be given to those who have submitted notices of appearance.

All written submissions will become part of the record of this proceeding and will be available for inspection and copying at the above address.

Any person who has already filed a notice of intention to appear, or who files a timely notice of intention to appear at any of the hearing locations may ask appropriate questions of any other participant at any of the hearing locations. In addition, any person who has filed a notice of intention to appear at the Washington hearing, but now wishes to make a brief presentation of the type permitted at one of the regional hearings, rather than Washington, may do so by notifying Tom Hall at the above address as soon as possible.

**CONDUCT OF HEARING**

The hearing will be conducted in accordance with 29 CFR Part 1911, and will commence with the resolution of any procedural matters. It will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

- (1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In the judge's discretion, to question and permit questioning of any witness; and

(6) In the judge's discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a final standard will be issued based on the entire record in this proceeding.

**BRIEF RECESS IN WASHINGTON HEARING**

As noted, the Washington hearing will commence on April 5, 1977, in the Departmental Auditorium on Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. During the comment period, OSHA received a request from the American Textile Manufacturers Institute for a recess in the Washington hearing from April 11 through April 15 because of an annual meeting which will be attended by many parties to this proceeding and was planned over three years ago. OSHA has granted this request in order to prevent undue hardship to them while not significantly delaying this proceeding. It is anticipated that the testimony by all expert witnesses testifying at the request of OSHA will be completed during the week of April 5th. The hearing in Washington will be recessed from April 11 until it resumes on April 18, 1977.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911.)

Signed at Washington, D.C. this 11th day of March, 1977.

**B. M. CONCELIN,**  
Deputy Assistant  
Secretary of Labor.

[FR Doc.77-7809 Filed 3-14-77;11:00 am]